



## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

**Provides limited government** –the bill removes regulatory requirements for the establishment of teaching hospitals by state universities that qualify for the exemption.

#### B. EFFECT OF PROPOSED CHANGES:

##### **Current Situation**

##### Certificate-of-Need (CON) Review

The CON is a regulatory review process administered by the Agency for Health Care Administration (AHCA) which requires specified health care providers to obtain prior authorization before offering certain new or expanded services or making major capital expenditures. A “Certificate of Need” is defined as: “. . .a written statement issued by the agency evidencing community need for a new, converted, expanded, or otherwise significantly modified health care facility, health service, or hospice.”<sup>1</sup>

Florida’s CON program has been in operation since July 1973. From 1974 through 1986, the specifics of the program were largely dictated by the federal National Health Planning and Resources Development Act, which established minimum requirements regarding the type of services subject to CON review, review procedures, and review criteria. Each state was required to have a CON program in compliance with those standards as a condition for obtaining federal funds for health programs. The federal health planning legislation was repealed in 1986.

Currently, chapter 408, part I, F.S., specifies those health providers and services subject to CON review and includes hospitals, long term care facilities, hospices, intermediate care facilities for the developmentally disabled,<sup>2</sup> inpatient diagnostic, curative, or comprehensive medical rehabilitative services<sup>3</sup> and tertiary health services, which due to its high level of intensity, complexity, specialized or limited applicability, and cost, should be limited to, and concentrated in, a limited number of hospitals to ensure the quality, availability, and cost effectiveness of such service. Examples of such service include, but are not limited to pediatric, cardiac catheterization, pediatric open-heart surgery, organ transplantation, and comprehensive rehabilitation.<sup>4</sup>

There are at least 20 statutory exemptions from the CON regulatory review process for certain health-care related projects.<sup>5</sup> Pursuant to AHCA rule, an entity seeking to obtain an exemption from the CON process must submit an exemption request application, documentation justifying the request, and a \$250 application fee.<sup>6</sup> The rule specifies information that must be included with the application materials, including the name of the facility involved, and the location, cost, gross square footage, proposed licensed bed capacity of the project.<sup>7</sup> In additions, there are certain project specific exemption requests that require additional information specified in the Rule.<sup>8</sup>

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<sup>1</sup> See s. 408.032(3), F.S.

<sup>2</sup> See s. 408.032(8), F.S.

<sup>3</sup> See s. 408.032(9), F.S.

<sup>4</sup> See s. 408.032(17), F.S.

<sup>5</sup> See s. 408.036(3), F.S.,

<sup>6</sup> 59C-1.005, F.A.C.

<sup>7</sup> Id.

<sup>8</sup> Id.

## State University Medical Schools

There are currently two accredited medical schools, at University of Florida and University of South Florida, which have seven different graduate medical education programs accredited by the Accreditation Council of Graduate Medical Education and 100 or more full time resident physicians. Currently, these medical schools have partnership arrangements with area hospitals to function as clinical teaching settings.

### **Effect of Proposed Changes**

House Bill 1099 creates an additional exemption from the CON regulatory review process for the establishment of a teaching hospital with a maximum of 200 beds on the main campus of a state university with an accredited medical school. To qualify for the exemption, the medical school must also have seven different medical education programs accredited by the Accreditation Council of Graduate Medical Education and 100 or more full-time equivalent resident physicians.

The bill further provides that any project meeting the above requirements is entitled to immediately receive a letter of exemption upon filing for it. The bill does not address AHCA's authority with regard to incomplete applications. Finally, the bill limits state universities with accredited medical schools to a letter of exemption for one project meeting these requirements.

If passed, the bill would currently allow medical schools at the University of Florida and the University of South Florida to establish a teaching hospital without meeting the CON requirements. Other existing medical schools may meet the exemption criteria in the future; similarly, new medical schools may exist in the future that may meet the exemption criteria.

The effective date of the bill is July 1, 2008.

### C. SECTION DIRECTORY:

**Section 1.** Creates s. 408.036(3)(u), F.S.; relating to projects subject to review and exemptions.

**Section 2.** Provides an effective date of July 1, 2008.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

None.

#### 2. Expenditures:

See Fiscal Comments section.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

None.

#### 2. Expenditures:

None.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Hospitals currently partnering with medical schools that exercise the exemption may experience reduced revenue as a result of possible reductions in patient volume and clinical staffing.

**D. FISCAL COMMENTS:**

There will be an indeterminate negative fiscal impact on the Medicaid Program. The bill would not result directly in an increase in the number of paid Medicaid days, but with any additional teaching hospital, the Medicaid recipients' cost per day will increase compared to the cost of services in a community hospital. Teaching hospitals, by the nature of what they do, have higher costs than general hospitals. In addition, a new facility may have higher costs reimbursed by Medicaid because they get to start from a more current cost based period than older facilities based on the way Medicaid Hospital per diem rates are currently set. In addition, as a new hospital is opened, it may draw more lucrative cases away from older existing facilities in the area, which may cause a reduction in Medicaid paid days which could increase a current facility's fixed and variable costs. Any fiscal impact would not result until a new hospital is licensed, which could be expected to take at least four years beyond the enactment of the proposed legislation.<sup>9</sup>

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

**1. Applicability of Municipality/County Mandates Provision:**

This bill does not require counties or municipalities to spend funds or take action requiring the expenditure of funds. This bill does not reduce the percentage of a state tax shared with counties or municipalities. This bill does not reduce the authority that municipalities have to raise revenues.

**2. Other:**

None.

**B. RULE-MAKING AUTHORITY:**

None.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

The bill requires a letter of exemption to be granted immediately upon receipt by AHCA; however, the bill indicate whether AHCA has any authority with regard to incomplete applications or applications that lack the necessary documentation or filing fees.

**D. STATEMENT OF THE SPONSOR**

No statement provided.

**IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES**

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<sup>9</sup> Agency for Health Care Administration 2008 Bill Analysis and Economic Impact Statement and e-mail from the Agency on file with the Committee.